



# City of NORFOLK

July 21, 2016

TO: ALL POTENTIAL OFFERORS

RE: RFP 5090-0-2017/DH, Liability Claims Adjusters Services, Addendum 1

Due: August 9, 2016 at 2:00 p.m. Eastern Standard Time

The above referenced RFP is hereby amended and clarified to include the following revisions to the solicitation documents:

1. In addition to the Per Claim fee charged on the current contract, does the City pay additional fees to the contractor, for instance Travel time and other expenses? If so, please identify the additional fees paid and the rates charged.

R. Current per claim fee is \$195 prop damage, and \$245 for BI claims. Other fees; see attached existing contract.

2. Does the City pay a fee to the contractor for Subrogation and/or Excess Insurance recoveries? If so, how much?

R. See attached existing contract.

3. Please provide the total paid to the current contractor in claims service fees in each fiscal year for Fiscal Years 2012-2016. Please break out by Per Claim fee, hourly charges, mileage, expense charges, subrogation/excess recovery etc. if possible.

R. Data is not readily available.

4. Please provide an example of the monthly & quarterly reports prepared for the City as referenced in paragraph e of Section I – Specific Requirements (page 6.)

R. Current reports are in MS Excel format; data is entered into the fields shown below – actual reports may include other fields used by the current adjuster, but not used by the City.

Claim Year	Accident Yr	Dept Num	Department Name	Bureau Num	Bureau Name	Claim Number	Alt Reporting Num	Claimant/Insured Name		
Claim Type	BI	PD	Other	Status; open/close	Loss Date	Assigned Date	Closed Date	In Litigation ?	Denied	Accident Description
Loss Paid to Date	Expense Paid to Date	Fees Paid to Date	Total Paid to Date	Loss Incurred	Loss Reserves	TOT Received to Date	TOT Net Paid	TOT Net Incurred		

5. Does the City and NPS provide location/department coding for the claims?

R. Yes.

6. Are separate loss runs and data needed for the City and NPS claims?

R. Preferred, but not required.

7. Please explain further the extent to which the adjuster would need to serve as a witness in litigation. Under what circumstance? What information is needed/expected to be provided? (Page 6, Section I, paragraph i)?

R. The adjuster may be summoned as witness to corroborate or further respond to questions regarding the adjuster's observations and conclusions regarding a claim.

8. Is 24/7 response required?

R. Yes.

9. Who is the incumbent contractor?

R. Johns Eastern Company.

10. Does this include 1<sup>st</sup> party damages?

R. No

11. Section I., h. – Is the requirement to maintain an adjuster in the Hampton Roads area?

R. Not required; but a Offeror's plan for field response and investigation will be a consideration.

All other provisions of the RFP shall remain unchanged. The provisions, herein, shall become part of the RFP package, and offeror shall acknowledge receipt of the addendum by signing in the space provided below and returning it with your proposal.

Signature: \_\_\_\_\_  
(Offeror)

Sincerely,



Danny Hawk, CPPB  
Procurement Specialist

CITY OF NORFOLK, VIRGINIA & JOHNS EASTERN COMPANY, INC.  
AGREEMENT: CLAIMS ADJUSTMENT SERVICES

THIS AGREEMENT, entered into this 28<sup>th</sup> day of October, 2011, by and between the CITY OF NORFOLK, a municipal corporation of Virginia, hereinafter called "City" and Johns Eastern Company, Inc., a corporation authorized to do business within the State of Virginia, hereinafter referred to as "Johns Eastern".

WHEREAS, the City has undertaken a self-insurance program in regard to liabilities arising from the City's operations, and

WHEREAS, the City has entered into a contract with the School Board of the City of Norfolk ("NPS") by which it was agreed that claims against the School Board are to be investigated and processed by the City Attorney or by companies under contract to the City, and

WHEREAS, the City deems it desirable to engage the services of Johns Eastern to render certain administrative, investigative and claims adjustment services to the City and the School Board of the City of Norfolk for the period beginning August 15, 2011 and ending July 31, 2014.

NOW, THEREFORE, WITNESSETH: That the City and Johns Eastern, for the considerations hereinafter set forth, hereby covenant and agree as follows:

1. JOHNS EASTERN'S SERVICES. Johns Eastern shall render the City the following services:

(a) Examine claim and loss reports of personal injury, sickness, disease, or property damage and/or destruction (and death resulting at any time from any of the foregoing), by any person or entity, directed to it by authorized officials of the City during the term of this Agreement.

(b) Conduct an investigation of each claim directed to it to the extent deemed necessary by Johns Eastern in accordance with acceptable standards of professional claims handling and adjusting practices, subject to the City's approval; render periodic status reports to the City concerning assigned claims; adjust and handle to a conclusion those claims which Johns Eastern is authorized to do by the City through its City Attorney, subject to paragraph 3, including any necessary preparation requested by the City for any subrogation or contribution claim.

(c) Perform all reasonable and necessary administrative and clerical work in connection with claim or loss reports and/or records referred to in this Agreement.

(d) Maintain a claim file for each claim or loss report as described in paragraph 1(a) and 1(b) above. The claim file shall be reviewable at any and all reasonable times by the City.

(e) Provide all forms necessary for the efficient handling, management, and disposition of claims directed to it, and submit monthly experience reports and other claim evaluation reports in a form acceptable to City. Monthly reports shall include, as a minimum, the status of each open claim assigned to Johns Eastern, including the status and amounts of payments and

reserves, if any, for each claim and for all claims, and shall be furnished to the City no later than the end of the next following month. Johns Eastern will also submit quarterly reports of all claims assigned to Johns Eastern which are open and unresolved for eighteen months or longer after such assignment.

(f) Johns Eastern will maintain a Claims Management Information System capable of producing monthly and on-going annual reports of the City's and NPS's claims activity that will enable the City to meet State agency reporting requirements as well as facilitate analysis of claims data for actuarial reporting and projections, operational and cost allocation and budget management issues. Claims data will be in an electronic format that can be electronically transferred into Microsoft "Excel" and/or Microsoft "Access" business application software, or other software applications acceptable to the City. Paper copy backup will be provided as determined needed by the City. The format and data fields of the reports will be determined by the City and Johns Eastern, but as a minimum the following data will be available in a singular report that allows data sort for analysis purposes:

- Line of coverage:
- Automobile Liability
- General Liability (including General Liability, Public Officials Liability, Employment

Practices Liability, Environmental Liability, Other.

- Claim type, i.e. bodily injury, property damage, collision, uninsured motorist.
- Date of incident, date received by adjuster, dates of payments, date claim closed. All data should be in format YYMMDD to facilitate data sorting.
- Claims status and adverse parties to claims;
- Summary of incurred and paid claims, including amounts of claims, based on year of incident, as well as date of adjudication;
- Summary of claims experience by City and NPS cost centers, as well as types and amounts of claims arising from incidents in those cost centers;
- Estimate reserves for all open claims.

All updated reports will be provided to the City no later than the fifteenth day of each month and will include all data current as of the end of the preceding month, i.e. claims status as of June 30 will be provided by July 15.

(g) Recommend claim reserves and provide a continuous review and updating of recommended claim reserves to reflect changes. Johns Eastern shall, in addition, provide separate monthly reports to the City and the School Board regarding claim reserves in a form sufficient to enable the City and the School Board to satisfy the Commonwealth of Virginia claims reporting requirements for self-insured entities.

(h) Promptly report to designated City officials sufficient information to enable the City to make proper reports

to its excess insurance carriers at such times and in such manner as to comply with all policy requirements as to notice and cooperation, and maintain documentary records reflecting such reporting.

(i) Provide all personnel necessary to provide the services agreed upon herein. Unless otherwise agreed to by the City, Johns Eastern adjusters possess at least five (5) years experience adjusting liability claims, and will be capable of recognizing exposures particular to municipal government.

(j) The services specified in this paragraph do not extend to the handling of losses resulting from hurricane, flood or other major natural catastrophes, the fees for handling of which are to be subject to negotiation should such a catastrophe occur, but which shall in no event exceed time and expenses.

(k) Assist the City in fulfilling its Medicare beneficiary reporting obligations under Medicare, Medicaid and State Children's Health Insurance Program Extension Act of 2007 ("MMSEA") Section 111 as set forth in 42 U.S.C. §1395y(b)(7)&(8). Johns Eastern and/or their third party vendor partner will perform the following reporting services for all claims adjusted under this contract, as well as for claims assigned to Johns Eastern by the City Law Department only for MMSEA reporting purposes:

1) Johns Eastern and/or their third party vendor partner will electronically interface with the Centers for Medicare and Medicaid Services ("CMS") to capture and report data in the format prescribed by the CMS Specifications.

2) Johns Eastern and/or their third party vendor partner will report directly to CMS on behalf of City as an Account Designee (reporting agent), as such term is defined in the CMS User Guide published on March 16, 2009 ("Account Designee").

3) City will be considered a Responsible Reporting Entity ("RRE") as that term is defined in MMSEA Section 111 as set forth in 42 U.S.C. §1395y. Johns Eastern will assist City as follows:

a) Johns Eastern and/or their third party vendor partner will guide development of an electronic interface with CMS to forward the information needed to meet City's MMSEA reporting obligations.

b) As the custodian of the original claims information from which the reports will be compiled, Johns Eastern will be an authorized Account Designee for City.

c) Johns Eastern and/or their third party vendor partner will prepare the CMS Medicare beneficiary required data files and submit them to CMS or otherwise forward them as instructed by City.



4) Johns Eastern will be responsible for payment of any and all fines assessed to City in regards to compliance with the Medicare beneficiary reporting requirements of Medicare, Medicaid and SCHIP Extension Act of 2007 that relate to the negligent acts or omissions of Johns Eastern except to the extent that:

a) Such fines or penalties are the direct result of specific direction given by City and/or its agent or the actions or omissions of City and/or its agent; or

b) Johns Eastern did not receive information from City that is essential to the performance of the duties set forth herein in a timely manner so as to be able to comply with the terms of this Agreement.

2. CITY'S OBLIGATIONS. The City agrees as follows:

(a) To promptly respond to all requests for payment made by Johns Eastern for authorized claim settlements and expenses not covered by the per claim fees specified in this agreement.

(b) That Johns Eastern shall have full authority and control in all matters pertaining to the adjustment, handling, investigation, and administration of claims and losses within the discretionary settlement authority limit, if any, specified in this Agreement, and may make such adjustment or settlement of claims within the discretionary settlement authority limit which in its judgment it deems proper.

(c) To promulgate and adopt, from time to time, such reasonable rules and regulations as the City may deem advisable for the administration, payment and/or resolution of claims hereunder, it being expressly understood by the parties hereto that such rules and regulations shall be incorporated into and become a part of this Agreement upon adoption, provided Johns Eastern has been notified in writing of the adoption of same and has been provided with a copy thereof.

(d) The City has elected to self-administer some of their personal injury and UM claims and to enter claims into Johns Eastern's claims system. City represents and warrants to Johns Eastern that it will:

1) Provide accurate and complete information, to include but not limited to: claimant information, settlement information, and other information required for Johns Eastern to provide Medicare Reporting Services.

2) Notify Johns Eastern of inaccurate or missing data and make best efforts to correct and collect missing data necessary for Johns Eastern to provide Medicare Reporting Services.

3. TERM; TERMINATION; NOTICE. This Agreement shall be in effect for a period commencing August 15, 2011 and terminating at the end of the business day on July 31, 2014, unless sooner terminated. At the City's option, this Agreement may be extended for up to two (2) additional years by written notice by the City to Johns Eastern. Notwithstanding the above, the City and Johns Eastern each reserve the right to terminate this Agreement by

providing written notice to the other party at least sixty (60) days prior to the date such termination shall be effective. Notice to the City shall be made by certified mail to the office of the City Attorney. Notice to Johns Eastern shall be sent by certified mail to the President of Johns Eastern at the most recent address provided to the City by Johns Eastern for mailing of correspondence related to the administration of this contract. Upon termination of the Agreement, a final accounting will be made by Johns Eastern of all sums owed by or to the City with respect to this Agreement.

Any claim(s) or loss(es) assigned to Johns Eastern up until the date of termination will continue to be handled and adjusted to conclusion by Johns Eastern unless the City elects to discontinue handling of all or particular claims by Johns Eastern. Should the City specify in writing to Johns Eastern that pending claim(s) and loss(es) are to revert to control of and become the responsibility of the City upon date of Agreement termination, final accounting shall include any amounts due either party on account of such pending claim(s).

No forms, periodic reports or reports on the status of individual claims, other than as provided in paragraphs 1(b), 1(c) and 1(d) will be required from Johns Eastern except as may be mutually agreed to on individual claims files.

4. FEES.

(a) For all services to be rendered by Johns Eastern under this Agreement during the period DATE: FIRST YEAR OF

AGREEMENT, the City shall pay JOHNS EASTERN for each claim assigned in accordance with paragraph 1 of this agreement:

(1) Bodily Injury Claim: \$245.00 per claim

(2) Property Damage Claim: \$195.00 per claim

The above fees will be the total fees applicable to all claims except that:

1) When Johns Eastern's total investigative time, including field investigations, for a bodily injury claim exceeds seven (7) hours of adjusting services, or nine (9) hours for a property damage claim, Johns Eastern shall receive for each such additional hour of investigative time actually and necessarily devoted to that claim the following amount in addition to the per claim fee: Sixty-two dollars (\$62.00).

2) The fee for each subrogation claim handled on behalf of the City will be one-third of recovery subject to a maximum fee of six hundred dollars (\$600.00) and a minimum fee of (\$100.00). If no recovery is made, the fee will be One Hundred Dollars (\$100.00).

3) The fee for any vehicle appraisal shall be ninety dollars (\$90.00) for autos, light trucks and sixty-five dollars (\$65.00) per hour for heavy trucks and equipment.

4) The fee for MMSEA reporting services as described in Paragraph 1.k of this agreement is Two Thousand Five-Hundred dollars (\$2,500.00) annually. Medicare Set-Aside (MSA) services to include: recommendation for MSA submission,

liability MSA services, comprehensive drug utilization review, lien search, conditional lien dispute, projection update. These charges will be billed as claims adjustment expenses to the City. City will utilize third party vendor contracted with Johns Eastern for these services.

(b) The total fees payable to Johns Eastern during the period August 15, 2011 through July 31, 2012, including all expenses, shall in no event exceed One Hundred Thousand and 00/100 (\$100,000.00) Dollars annually. Johns Eastern will provide an itemized billing at the end of each month detailing the fees for each claim assigned during that month, as well as for hourly rates and expenses not covered by per claim fees associated with assigned claims in that, or prior, month(s). Separate billings will be made for City and School Board claims. The City will provide payments within 30 days of receipt of the billing.

(c) The fees in Paragraphs 4 (a) and (b) shall include photocopies (up to fifty (50) pages per file), all travel expenses within the Greater Tidewater area (Norfolk, Portsmouth, Virginia Beach, Suffolk, Hampton, Poquoson and Newport News), any Index filings, and all parking fees within the City of Norfolk.

(d) When authorized in writing by the City, additional expenses to Johns Eastern not included in the per claim fee described in paragraph 4(a) of this Agreement, may be billed as "Allocated Claims Adjustment Expenses" to the City. This may include such expenses as court costs, fees and expenses; fees for service of process; fees to attorneys; costs of undercover operative or detective services; fees of independent adjusters or

attorneys for investigation or adjustment of claims in areas outside the Greater Tidewater area; costs for employing experts for the preparation of maps, photographs, diagrams, chemical or physical analysis or for advice, opinions or testimony concerning claims under investigation or in litigation; costs for transcripts of testimony taken at coroner's inquests, criminal or civil proceedings; costs for copies of any public records; costs of depositions and court reporter or recorded statements; and any similar fees, costs or expenses reasonably necessary to the investigation, negotiation, settlement or defense of a claim or to the assertion and prosecution of the subrogation rights of the City. Mileage expenses for travel outside the federally designated Hampton Roads Standard Metropolitan Statistical Area (SMSA) shall be billed at Fifty-five cents (\$.55) per mile. The fees for non-digital color photographs will be \$1.00 per copy.

(e) In the second year of this Agreement (August 15, 2012 through July 31, 2013), and all successive periods years described in paragraph 3(a), the per claim and hourly fees payable to Johns Eastern shall be the fees set forth in paragraph 4(a) of this Agreement plus an additional amount not to exceed 2% over the previous year's fees. Additional expenses listed in Paragraph 4(d) for mileage, photostatic copies, and photograph expenses not covered by the per claim or hourly fees shall not be subject to the same percentage increases applicable to per claim fees as described above.

(f) The term "claim" as used in this Agreement shall be defined as a specific claim for personal injury, death or

property damage by an individual or entity. For example, liability arising from an automobile accident may involve both alleged "personal injury" and "property damage" to a claimant. In such situations, an allegation of both personal injury and property damage would constitute two (2) claims for purposes of computing compensation due to Johns Eastern. Any loss of use claim incident to an automobile property damage claim, i.e., claimant rental expenses, shall not be treated as a separate claim.

(g) Johns Eastern may request from the City, but the City shall not be required to authorize the incurring by Johns Eastern of expenses other than the per claim fees described in this agreement. Any such authorization by the City shall be in writing.

(h) In the event that the City Council fails to appropriate sufficient funds to make the necessary payments for any of the fiscal years following the initial year of this Agreement, the City shall not be in default, but this Agreement will automatically terminate upon the adoption of the budget for any City fiscal year for which no sufficient appropriation of funds for compensation of Johns Eastern under this Agreement has been made. The City will notify Johns Eastern of any failure by the City Council to appropriate such funds, but failure to give such notice will not affect the automatic termination of the Agreement.

5. INDEMNITY AND INSURANCE. Johns Eastern agrees to defend, indemnify, and hold harmless the City, its officials, employees, representatives, and volunteers from and against any and all claims, demands, defense costs, liability or consequential damages of any kind or nature arising out of or in connection with Johns Eastern's performance, or failure to perform under the terms of this Agreement.

City agrees to indemnify and hold harmless Johns Eastern and its directors, officers, employees, stockholders, and agents against any and all claims, lawsuits, settlements, judgments, costs, penalties, and expenses, including, without limitation, attorneys' and legal assistants' fees before and at trial, on appeal, or otherwise, resulting from the breach of, or negligence or misconduct in performing items in 2(d).

City as a Responsible Reporting Entity (RRE) may not shift its Section 111 reporting responsibility to an agent, by contract or otherwise. The RRE remains solely responsible and accountable for complying with CMS instructions for implementing Section 111 and for the accuracy of data submitted.

Johns Eastern will not be liable to City for special, indirect or consequential damages incurred or suffered by the City arising as a result of or related to Section 111 Medicare secondary reporting services on behalf of City.



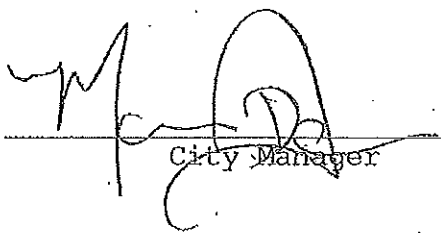
6. GOVERNING LAW. The parties agree that this Agreement shall be interpreted and construed in accordance with the laws of the Commonwealth of Virginia.

7. INDEPENDENT CONTRACTOR. The parties agree that Johns Eastern its officers, employees, agents and representatives are independent contractors and shall not be considered to be employees of the City for any purpose whatsoever.

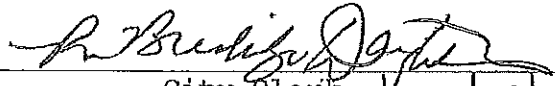
IN WITNESS WHEREOF, the respective parties have executed these presents by and through their authorized agents as hereinafter indicated.

CITY OF NORFOLK

By: \_\_\_\_\_

  
City Manager


ATTEST:

  
City Clerk

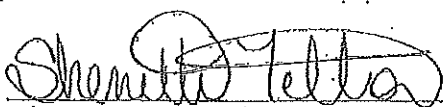
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JOHNS EASTERN COMPANY, INC.

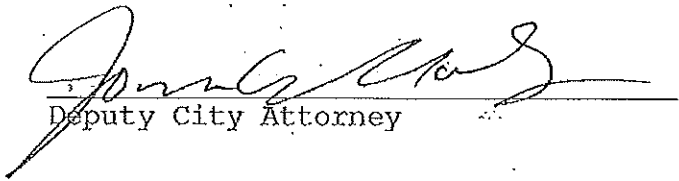
By: \_\_\_\_\_

  
Don Lederer, President

CONTENTS APPROVED:

  
Director of Finance

APPROVED AS TO FORM AND CORRECTNESS:

  
Deputy City Attorney

CERTIFICATE OF FUNDING

I hereby certify that the money required for payment under this Agreement is in the Treasury to the credit of the fund from which it is to be drawn and not appropriated for any other purpose.

Amount: \$65,000.<sup>00</sup>

Account: 1000-17-061-5302, AC 422

Contract: CT 13101

Vender: Johnse. 0101

  
Director of Finance

9/22/11  
Date